

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MARIA KAMILA MARIN, *on behalf of herself  
and others similarly situated*,

Plaintiff,

v.

APU FOODS CORP., d/b/a RIKO PERUVIAN  
CUISINE, 44 SUNNYSIDE CORP., d/b/a RIKO  
PERUVIAN CUISINE EXPRESS, JAMAICA 153  
CORP., d/b/a RIKO PERUVIAN CUISINE, 8  
CHELSEA CORP., d/b/a RIKO PERUVIAN  
CUISINE, BARU CORP., d/b/a CUMBIA AND  
SABOR, PAULA ANDREA GIL, and WALTER  
BURGOS,

Defendants.

**MEMORANDUM & ORDER**  
17-CV-3224 (MKB) (SMG)

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MARGO K. BRODIE, United States District Judge:

Plaintiff Maria Kamila Marin commenced the above-captioned action against Defendants APU Foods Corp., doing business as Riko Peruvian Cuisine, 44 Sunnyside Corp., doing business as Riko Peruvian Cuisine Express, Jamaica 153 Corp., doing business as Riko Peruvian Cuisine, 8 Chelsea Corp., doing business as Riko Peruvian Cuisine, Baru Corp., doing business as Cumbia y Sabor, Paula Andrea Gil, and Walter Burgos, asserting claims under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.* (“FLSA”), and New York Labor Law, §§ 650 *et seq.* (“NYLL”), alleging, *inter alia*, nonpayment of minimum wages and overtime premiums. (Am. Compl. 12–16, Docket Entry No. 21.) On July 14, 2017, Defendants moved to dismiss the Amended Complaint. (Defs. Mot. to Dismiss (“Defs. Mot.”), Docket Entry No. 24.)

On October 7, 2017, the Court referred Defendants’ motion to Magistrate Judge Steven M. Gold for a report and recommendation. (Order dated Oct. 7, 2017.) By report and recommendation dated February 26, 2018 (the “R&R”), Judge Gold recommended that the Court

deny Defendants' motion to dismiss. (R&R, Docket Entry. No. 28.) No party has objected to the R&R.

A district court reviewing a magistrate judge's recommended ruling "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "Failure to object to a magistrate judge's report and recommendation within the prescribed time limit 'may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object.'" *Sepe v. N.Y. State Ins. Fund*, 466 F. App'x 49, 50 (2d Cir. 2012) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997)); *see also Almonte v. Suffolk Cty.*, 531 F. App'x 107, 109 (2d Cir. 2013) ("As a rule, a party's failure to object to any purported error or omission in a magistrate judge's report waives further judicial review of the point." (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) ("[A] party waives appellate review of a decision in a magistrate judge's report and recommendation if the party fails to file timely objections designating the particular issue." (citations omitted)).

The Court has reviewed the unopposed R&R and, finding no clear error, the Court adopts the R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1). Accordingly, the Court denies Defendants' motion to dismiss.

SO ORDERED:

s/ MKB  
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MARGO K. BRODIE  
United States District Judge

Dated: March 23, 2018  
Brooklyn, New York